

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

IN RE:	
JOETTE FRANCINE ROBINSON	Chapter 13
Debtor	Case No. 18-35073-KLP
M&T BANK	
Movant	
v.	
JOETTE FRANCINE ROBINSON 114 E. 12TH STREET RICHMOND, VA 23224 (Debtor)	
SUZANNE E. WADE P.O. BOX 1780 RICHMOND, VA 23218-1780 (Trustee)	
Respondents	

MOTION FOR RELIEF FROM AUTOMATIC STAY

M&T Bank (“Movant”) by undersigned counsel, respectfully moves this Honorable Court to terminate the Automatic Stay as to the real property located at 114 East 12th Street, Richmond, VA 23224 (“Property”), and, as grounds therefore, states as follows:

1. This proceeding seeking relief under 11 U.S.C. § 362(d) is a contested matter within the meaning of Fed. R. Bankr. P. 4001 and 9014, and this court has jurisdiction over this matter pursuant to 28 U.S.C. § 157. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G) and (b)(2)(O). Venue is proper pursuant to 28 U.S.C. § 1409(a).

Hugh Green, Esq., Bar # 86687
Kathryn Smits, Esq., Bar # 77337
Heather D. McGivern, Esq., Bar # 91767
PO Box 2548
Leesburg, VA 20177
(703)777-7101

2. On October 10, 2018, the above named Debtor, Joette Francine Robinson ("Debtor"), filed in this court a Petition under Chapter 13 of the United States Bankruptcy Code. Suzanne E. Wade was appointed Chapter 13 Trustee.

3. On or about August 17, 2012, Joette F Robinson executed and delivered to Neighborhood Housing Services of Richmond, Inc. a Note in the amount of ONE HUNDRED THIRTY-FOUR THOUSAND DOLLARS AND NO CENTS (\$134,000.00), plus interest at the fixed rate of 4.125% per annum to be paid over thirty (30) years. A copy of the Note is attached as **Exhibit A** and incorporated herein.

4. To secure the repayment of the sums due under the Note, Joette F Robinson executed and delivered to Neighborhood Housing Services of Richmond, Inc. a Deed of Trust dated August 17, 2012, encumbering the real property ("Property") described as:

ALL that certain lot, piece or parcel of land, with any improvements thereon, lying and being in the City of Richmond, Virginia, designated as Lot 7, Block A, Hope VI – Phase II Subdivision, as shown on that certain plat of subdivision made by Steven B. Kent & Associates, P.C., dated June 18, 2008, entitled "Hope VI – Phase II Subdivision, Block A, City of Richmond, Virginia" which plat is recorded in the Clerk's Office, Circuit Court, City of Richmond, Virginia, in Plat Book 08-34, to which plat reference is hereby made for a more particular description of the property hereby conveyed

BEING the same real estate conveyed to Joette F. Robinson by Deed from Richmond Redevelopment and Housing Authority, a political subdivision of the Commonwealth of Virginia, dated July 12, 2012 and recorded in the Clerk's Office, Circuit Court, City of Richmond, Virginia, immediately prior hereto.

which has the address of 114 East 12th Street, Richmond, VA 23224. The Deed of Trust was recorded in the Clerk's Office of Richmond on August 20, 2012. A copy of the Deed of Trust is attached as **Exhibit B** and incorporated herein.

5. The Note and Deed of Trust were later transferred to Movant and Movant is the current holder of the Note and Deed of Trust. A copy of the Assignment is attached as **Exhibit C** and incorporated herein.

6. Debtor(s) executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

7. As of June 11, 2019, the Debtor owes an unpaid principal balance of \$124,845.84 under the Note, plus additional accruing interest, late charges, attorneys' fees and costs.

8. As of June 11, 2019, the Debtor is post-petition due for February 1, 2019, which includes the following missed payments:

Number of Missed Payments	From	To	Payment Amount	Total Due
4	February 1, 2019	May 1, 2019	\$995.38	\$3,981.52
1	June 1, 2019	June 1, 2019	\$1,032.64	\$1,032.64
Suspense:				(\$0.00)
Total Payments Past Due:				\$5,014.16

9. The value of the property is \$172,000.00, according to the Debtor's Schedule "A".

10. The Debtor is in default under the Note.

11. That the Debtor's account delinquency constitute cause for relief from the automatic stay.

WHEREFORE, M&T Bank prays that this Court issue an order terminating or modifying the Automatic Stay under 11 U.S.C. § 362, as to the property located at 114 East 12th Street, Richmond, VA 23224, and granting the following:

- a. Relief from the Automatic Stay allowing Movant to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property and/or allowing Movant, through its agents, servicers and representatives to contact Debtor and/or Debtor's counsel for the purpose of engaging in discussions and consideration for possible loss mitigation options, solutions and/or resolutions with regard to the underlying mortgage and note, including, but not limited to loan modification, deed in lieu or other loss mitigation alternatives.
- b. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.
- c. That the 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived.
- d. That it be exempted from further compliance with Fed. R. Bankr. P. 3002.1 in the instant bankruptcy case.
- e. For such other relief as the Court deems proper.

Date: June 25, 2019

Respectfully submitted,

/s/ Kathryn Smits
Hugh Green, Bar #86687
Kathryn Smits, Bar #77337
Heather D. McGivern, Bar #91767
Orlans PC
PO Box 2548
Leesburg, VA 20177
(703)777-7101
Attorneys for M&T Bank
hgreen@orlans.com
ksmits@orlans.com
hmcgivern@orlans.com

CERTIFICATE OF SERVICE

The undersigned states that on June 25, 2019, copies of the foregoing Motion for Relief from Automatic Stay were filed with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

Suzanne E. Wade
P.O. Box 1780
Richmond, VA 23218-1780
ecfsummary@ch13ricva.com
Bankruptcy Trustee

Kimberly Alice Chandler
Chandler Law Firm
P.O. Box 17586
Richmond, VA 23226
kim@cp-lawfirm.com
Debtor's Attorney

and I hereby certify that I have caused to be mailed by first class mail, postage prepaid, copies of the foregoing Motion for Relief from Automatic Stay to the following non-ECF participants:

Joette Francine Robinson
114 E. 12th Street
Richmond, VA 23224
Debtor

/s/ Kathryn Smits
Hugh Green, Esquire
Kathryn Smits, Esquire
Heather D. McGivern, Esquire